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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,989	01/05/2001	Troy Jervas	1765.001A	5431

23405 7590 09/18/2002

HESLIN ROTHENBERG FARLEY & MESITI PC
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ALBANY, NY 12203

EXAMINER

HWU, DAVIS D

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 09/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/754,989

Applicant(s)

JERVAS, TROY

Examiner

Davis Hwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10, and 12-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 13-28 is/are rejected.
- 7) ☒ Claim(s) 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

Response to Amendment

1. Applicant's amendment of August 20, 2002 is acknowledged and entered as paper number 8 in the case file wrapper.
2. Applicant's remarks have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-9, 13-23, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney (US Patent Number 5,979,785) herein referred to as McKinney '785) in view of Doman et al.

McKinney '785 discloses the limitations of the instant invention except for remotely selecting a first nozzle and remotely selecting a second nozzle as recited. The patent to Doman et al. teaches a snow making apparatus comprising a plurality of nozzles 28 secured to valves 24 to permit changing nozzles even though the rest of the system is under operating pressure. This will also allow the amount of snow being produced to be adjusted. The plurality of nozzles is arranged circumferentially on a discharge unit 20. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of McKinney '785 by incorporating valves into the discharge nozzles of McKinney '785 as taught by Doman et al. in order

to be able to change nozzles while the rest of the system is under operating pressure and to be able to control the amount of snow being produced and to have arranged the nozzles circumferentially on the discharge unit for even distribution as recited in claim 22. It is obvious that the device of McKinney '785 also has a control unit attached to a lower end of the tower for on/off switching of water and air as recited in claim 7 and 21. The limitations of claim 23 would have been obvious matters of design choice since they only involve selectively placing valves on certain nozzles.

5. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney '785 in view of Doman et al. as applied to claim 13 above, and further in view of Ratnik et al.

McKinney '785 and Doman et al. disclose the limitations of the instant invention including the plurality of discharge nozzles being elevated above the ground. McKinney '785 and Doman et al. do not disclose the controller to control the control mechanism based on the ambient temperature. The patent to Ratnik et al. teaches an automated snow making device comprising a pressurized water line L1 having a water control valve V1 and a pressurized air line L2 having an air control valve V2 in which valves V1 and V2 are controlled by a control unit 16 which controls the valves to adjust the air/water ratio based on ambient temperature and humidity conditions in which ambient temperature reading is provided by a temperature sensor 50 as recited in claim 25. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of McKinney '785 and Doman et al. by incorporating a control unit to control the control mechanism and a temperature sensor

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as taught by Ratnik et al. in order to be able to control the required air/water ratio based on ambient conditions.

Allowable Subject Matter

6. Claims 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7766 for regular communications and (703)308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

DDH
September 12, 2002


MICHAEL MAR 9-13-02
PRIMARY EXAMINER